

REMARKS

In response to the above identified final Office Action, the Applicants amend the application and seek reconsideration in view of the above amendments and the following remarks. In this response the Applicants amend claims 8 and 20-25. Entry is requested. No claims have been added no claims have been cancelled. Accordingly, claims 1-25 remain pending in the application.

I. Claims Rejected Under 35 U.S.C. § 101

Claims 20-25 stand rejected under 35 USC § 101 as being allegedly directed to non-statutory subject matter. The Applicants have amended claim 20 and its dependent claims to be directed towards a method. Thus, the Applicants respectfully request that the Examiner reconsider the non-statutory subject matter rejection of these claims. Accordingly, reconsideration and withdrawal of the non-statutory subject matter rejection of claims 20-25 are requested.

II. Claims Rejected Under 35 U.S.C. § 102

Claims 1-19 stand rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 5,805,705 issued to Gray, et al. (hereinafter "Gray"). The Applicants respectfully disagree for the following reasons.

To anticipate a claim the Examiner must show that the cited reference teaches each of the elements of the claim. In regard to claim 1, this claim includes elements of "wherein the data stream is decodable by a compliant decoder, after the non-compliant data is *replaced* with compliant data." (emphasis added) In paragraphs 3, 4 and 5 of the Final Office Action the Examiner responds to the Applicant's previous arguments but appears to misunderstand the main thrust of those arguments. The Examiner focuses on the meaning of the terms "non-complaint

data" and "compliant data." However, the Applicants are attempting to make clear that those aspects of Gray that the Examiner relies upon for teaching these elements, do not *replace* one another. The focus of the discussion should be on the term 'replace.' The Examiner states that "Gray teaches changing the synchronization bit (i.e., key information) from a "0" to a "1" or vice versa." However, this is not equivalent to the replacement of non-compliant data with compliant data as set forth in the claim. The term "replace" means "to take or fill the place of." See the American Heritage Dictionary of English Language 4th edition, Houghton Mifflin Co. (2000). Thus, according to the claim, compliant data is put in the place of non-compliant data. This is not disclosed by Gray. The section of Gray cited by the Examiner discloses that a synchronization bit which may be either a value of 0 or 1 may change from one packet to the next over time. It does not teach that any given synchronization bit value is replaced at the same position in the same packet by another value. See Gray col. 4, lines 52-56 which states that "a change in the binary value stored in KSB position 56 from one data packet to the next is a signal to a destination node that a new decryption key (previously sent to and stored by the node) is to be activated" (emphasis added). See also col. 5, lines 13-22. Thus, the sections of Gray that the Examiner relies on to teach the replacing of non-compliant data with compliant data, in fact, teach only the changing of a value from one data packet to the next as an indicator that a decryption key should be changed. This does not teach that any data is put in the place of other data and thus cannot be said to be *replacing* any data. Therefore, Gray does not teach the elements of claim 1. Accordingly, the reconsideration and withdrawal of the anticipation rejection of claim 1 are requested.

Claims 2-4 depend from independent claim 1 and incorporate the limitations thereof. Thus, at least for the reasons mentioned above at least in regard to independent claim 1, these

claims are not anticipated by Gray. Accordingly, reconsideration and withdrawal of the anticipation rejection of claims 2-4 are requested.

In regard to claim 5, 8, 11 and 14 these claims include elements similar to those of independent claim 1. Thus, at least for the reasons mentioned above, Gray does not teach each of the elements of these claims. Claims 6, 7, 9, 10, 12, 13 and 15-19 depend from these claims, respectively, and incorporate the limitations thereof. Thus, at least for the reasons mentioned above in regard to independent claims 5, 8, 11 and 14 these claims are not anticipated by Gray. Accordingly, reconsideration and withdrawal of the anticipation rejection of these claims are requested.

III. Claims Rejected Under 35 U.S.C. § 103

Claims 20-25 stand rejected under 35 U.S.C. § 103 as being unpatentable over Gray.

To establish a *prima facie* case of obviousness, the Examiner must show that the cited reference teaches or suggests each of the elements of the claim. In regard to claims 20 and 25 these claims include the elements of "a key information separate from and associated with the header." The Applicants believe that Gray fails to teach the elements of claims 20 and 25, because the key synchronization bit of Gray is found within the header. See Gray, col. 4, lines 49-52. The Examiner has argued that this difference is merely the "rearranging of parts." However, the rearrangement of parts in In re Japiske did not affect the operation of the device. Moving data outside of a header affects the operation of Gray. Gray, as is common in the art, only analyzes the header. Analyzing the remainder of the packet to determine an additional data structure that is neither payload or header would alter a fundamental operating principle of Gray. See MPEP § 2143.01 (IV). Thus, Gray cannot be modified as suggested by the Examiner.

Therefore, claims 20 and 25 are not taught or suggested by Gray. Accordingly, reconsideration and withdrawal of the obviousness rejection of claims 20 and 25 are requested.

In regard to claims 21-24 these claims depend from independent claim 20 and incorporate the limitations thereof. Thus, at least for the reasons mentioned above in regard to independent claim 20, these claims are not obvious over Gray. Accordingly, reconsideration and withdrawal of the obviousness rejection of claims 21-24 are requested.

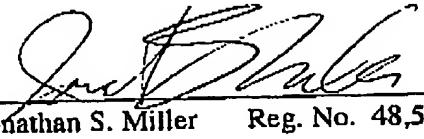
CONCLUSION

In view of the foregoing, it is believed that all claims now pending, namely claims 1-25, patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207 3800.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

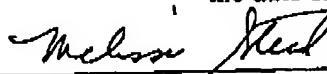
Dated: 7/6, 2006



Jonathan S. Miller Reg. No. 48,534

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office on the date shown below.



Melissa Stead 7-6-06

Melissa Stead Date